## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

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| <b>SECULT NO. 4:12-CV-00199</b> |
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## CITY OF HUNTSVILLE, TEXAS'S SUPPLEMENT AND SUGGESTION OF NON-OPPOSITION TO THE CITY'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER RULE 12(B)(6)

Defendant, City of Huntsville, Texas, files this Supplement and Suggestion of Non-Opposition to the City's Motion to Dismiss for Failure to State a Claim under Federal Rule of Civil Procedure 12(b)(6) requesting the Court enter judgment in its favor on all claims against it. In further support thereof, the City respectfully shows as follows:

- 1. On February 6, 2012, Defendants City of Huntsville, Texas filed its Motion to Dismiss for Failure to State a Claim under Rule 12(b)(6). The City also filed a memorandum in support of its motion on the same day. Under Rule 7.4 of this Court's Local Rules, Plaintiff's deadline to respond to the City's motion was February 27, 2012.
- 2. Plaintiff has failed to file any response or seek additional time to respond to the City's motion. Accordingly, and under Local Rule 7.4, the City submits that this Court should take Plaintiffs' decision not to respond as an indication of their non-opposition to the City's requested relief. Therefore, given the substance and merits of the City's pending motion, which

is ripe for ruling, the City of Huntsville, Texas prays that this Court grant all relief requested in its Motion to Dismiss for Failure to State a Claim under Federal Rule of Civil Procedure 12(b)(6).

## **PRAYER**

Accordingly, and based upon the foregoing, the City of Huntsville, Texas prays that the Court grant the City's Motion to Dismiss, dismiss all claims and allegations against it, tax costs against Plaintiffs, and afford the City all other relief to which it is justly entitled.

Respectfully Submitted,

CHAMBERLAIN, HRDLICKA, WHITE WILLIAMS & AUGHTRY

By: \_\_\_\_/s/ William S. Helfand\_

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ATTORNEYS FOR DEFENDANT CITY OF HUNTSVILLE, TEXAS

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been forwarded to the following counsel of record in accordance with the District's electronic delivery system on this  $28^{th}$  day of February 2012:

David Hammit Attorney at Law 109 South Madison Street Madisonville, Texas 77864

| /s/ William S. Helfand |  |
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